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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket 96-45
Federal-State Joint Board on Univeral Service	)	
	)	CC Docket 97-160
Forward-Looking Mechanism for Non-Rural LECs	)	

COMMENTS

OF

EVANS TELEPHONE COMPANY
HUMBOLDT TELEPHONE COMPANY
KERMAN TELEPHONE CO.
OREGON-IDAHO UTILITIES, INC.
PINNACLES TELEPHONE CO.
THE PONDEROSA TELEPHONE CO.
THE SISKIYOU TELEPHONE COMPANY
THE VOLCANO TELEPHONE COMPANY

ON PROPOSED REVISIONS TO UNIVERSAL SERVICE SUPPORT METHODOLOGY (DA 98-715)

Dated: May 15, 1998

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COMMENTS ON PROPOSED REVISIONS TO UNIVERSAL SERVICE SUPPORT METHODOLOGY

Evans Telephone Company, Humboldt Telephone Company, Kerman Telephone Co., Oregon-Idaho Utilities, Inc., Pinnacles Telephone Co., The Ponderosa Telephone Co., The Siskiyou Telephone Company, and The Volcano Telephone Company (the Small Western LECs) respectfully file their Comments in response to the Common Carrier Bureau's April 15, 1998, Public Notice soliciting Comments on Proposals to Revise the Methodology for Determining Universal Service Support.

I. INTRODUCTION.

The Small Western LECs are small, independent local exchange carriers serving high-cost, rural areas in the states of California, Nevada, Oregon, and Idaho. As small, incumbent LECs, they receive support for a substantial portion of their costs of operation from the interstate universal service fund, under the Commission's rules. Each of the Small Western LECs is classified as a "Rural Telephone Company" under the Telecommunications Act of 1996 (TA96), and each has been designated as an "Eligible Telecommunications Carrier" by its state commission. These Comments will address issues of USF methodology that will directly impact the quality of service received by and the local service rates paid by current and future customers of the Small Western LECs.

The April 15, 1998, Public Notice solicits comments on proposals to revise various aspects of the Commission's universal service policies set forth in the May 8, 1997, Universal Service Order, FCC 97-157, as amended on reconsideration. Numerous parties have proposed revisions to these policies, through petitions for reconsideration, through ex parte communications and less formal Commission contacts, and, most recently, in filings responding to the April 15, 1998, Public Notice. In addition, Congress, acting through the 1998 Appropriations Act,[1] has required that the Commission review and reconsider certain, specific aspects of its interpretations of the universal service provisions of TA96.

In these Comments, the Small Western LECs will address two particular areas of proposed change, which are (1) the limitation of interstate USF funding to 25% of the determined funding requirement and (2) the planned transition to a proxy model methodology to determine the USF funding requirements of small, rural LECs.

II. THE SYSTEM OF INTERSTATE UNIVERSAL SERVICE FUNDING SHOULD PROVIDE FOR 100% OF THE DETERMINED LEVEL OF SUPPORTED COSTS.

A. The 75% Reduction in Universal Service Funding Proposed by the Commission Does Not Meet Statutory Requirements.

The Commission's May 8, 1997, Universal Service Order restricted the interstate portion of universal service funding to 25% of the total determined funding need. For the Small Western

[1]Pub. L. No. 105-119, 111 Stat. 2440.

LECs, such a policy would amount to a 75% reduction in the level of support funds determined to be needed under the Commission's rules. The May 8, 1997, order suggests that states will make up the 75% loss in funding, but there is no requirement that this be done, nor is there any assurance that a particular state program will provide universal service support to meet the determined requirements of all of the carriers within the state.

The elimination of 75% of the support for the determined funding requirement was inserted into the May 8, 1997, order without advance circulation of the proposal for comment. This 75% funding reduction was not proposed by the Joint Board in its November 8, 1996, Recommended Decision in the within docket, nor was the proposal circulated for comment by the Commission prior to its adoption in the May 8, 1997, Universal Service Order.

The apparent source of the Commission's decision to reduce interstate USF funding by 75%,[2] was the resistance of some state regulators to assessment of the costs of the universal service program against a revenue base that would include both state and interstate revenues. The Commission responded to this "turf" dispute by backing away from the statutory requirement of "sufficient" support in favor of providing only 25% of the level of funding determined to be"sufficient" under the Commission's rules. The Commission's recent Report to Congress recognizes, however, that the Commission has jurisdiction to utilize both state and interstate revenues as the measure by which telecommunications service providers contribute to the ubiquitous system of universal service support envisioned and required by TA96.[3]

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[2] In response to enactment of TA96, which has been universally recognized as intending to <u>expand</u> interstate universal service support.

[3]April 10, 1998, Report to Congress, Paragraph 209.

This particular provision of the Commission's universal service program has been criticized on many fronts, including petitions for reconsideration and judicial review proceedings now pending in the Court of Appeals. The 75% funding reduction cannot be reconciled with the requirement under Section 254 of TA96 that the universal support system adopted under the act be "sufficient," nor can it be reconciled with the pre-existing mechanisms for interstate USF which provide 100% of the support determined to be necessary under the Commission's rules. The Commission has recognized the need to revisit this policy determination in its recent Report to Congress, which characterizes the 25% limit on federal USF funding as a "place holder."[4]

The Commission has erred by allowing the political issue of state/interstate spheres of responsibility to serve as the basis for FCC "amendment" of the specific legislative requirements of TA96. Congress did not direct the Commission to provide sufficient support only if the program avoided ruffling the feathers of state regulators. TA96 states national goals, involving provision of reasonably priced, comparable telecommunications services to all citizens. It does not contemplate state-by-state bean counting.

Nothing in the Telecommunications Act either asks or authorizes the Commission to classify states as net contributors or as net recipients of universal service funds. The customers who are the beneficiaries of rural, high-cost universal service programs are to be determined with reference to their entitlement to "reasonably comparable" services at "reasonably comparable" rates, irrespective of whether they live in states with high or low statewide average service costs.

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[4]April 10, 1998, Report to Congress, Paragraph 19.

B. The Proposal of the Ad Hoc Working Group Would Abandon Commission Responsibility for National Standards and Adequate Universal Service Funding.

The proposal of the Ad Hoc Working Group represents an attempt to "blend" state and federal funding responsibilities by directing federal support to states with costs falling above a calculated "average" level. While the plan does reduce the size of the interstate portion of USF funding requirements, it fails to assure that the combination of interstate and state funding will be "sufficient" as required by TA96 or that the service and rate "comparability" standards of the act will be met.

The Ad Hoc Group proposal, instead, provides money only for "cost-disadvantaged" states, without any actual assurance that all states, both those that receive funding and those that do not receive funding, will carry out the universal service responsibilities required by TA96. Such a proposal would, further, create huge political pressures among the "have" and "have not" states that would make the funding system inherently unstable.[5] Congress did not intend to promote a "Balkanized" universal service program when it enacted the Telecommunications Act of 1996. Congress intended, instead, to promote universal service in all parts of the nation and for all citizens, regardless of the state in which they reside. A system driven by state-by-state ledgers will not achieve the national universal service goals of TA96. Those goals will only be achieved through a program of national standards, supported by adequate national funding.

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[5]The proposal does include "hold harmless" funding levels "assuring" that each state and each local exchange company would continue to receive its present level of universal service funding. These provisions are, however, only interim in nature. It is not clear that they would survive political pressures among the states for even the four-year period proposed for the Ad Hoc Group plan.

C. The Data in the TIAP Report Illustrates the Necessity of Funding the National Universal Service Program by Assessments Against a Nationwide Telecommunications Revenue Base.

The Telecommunications Industry Analysis Project (TIAP) March 10, 1998, Report presents a wealth of useful data comparing various USF funding sources and fund sizes. It demonstrates the actual rate impact of various USF "budgets"-- a factor often overlooked by advocates of particular theory-based proposals.

The conclusion to be drawn from the TIAP Report is that a system of universal service funding that meets the statutory requirements of "sufficiency" and rate and service "comparability" cannot be funded entirely from interstate revenue sources. The required assessment or surcharge levels are simply too high to be politically sustainable. This conclusion leads, in turn, to examination of funding alternatives utilizing a nationwide revenue base.

The TIAP Report illustrates two funding approaches based on uniform nationwide criteria. Option 5 shows the required levels of a system of end-user assessments, similar to the existing interstate EUCL charge. Option 6 shows the levels of surcharge assessments that would be based on percentage of nationwide retail revenues.

The Option 5 alternative is interesting but politically unsustainable. Recent congressional commentary should have eliminated any doubt that Congress did not intend to increase recurring local rates when it enacted the universal service provisions of TA96. This leaves an assessment against carriers based on retail revenues as the alternative of choice to provide funding for the nationwide universal service program that Congress did require under TA96. The Commission should replace its 25% funding "placeholder" with a system of a percentage assessment against all nationwide retail revenues. This methodology is best suited to provide the funds required for a stable universal service program that will meet the requirements of the Telecommunications Act.

III. THE COMMISSION SHOULD REDEFINE THE GOALS OF THE RURAL TASK FORCE TO ELIMINATE THE MANDATE TO TRANSITION TO A PROXY MODEL SYSTEM BY 2001.

The Commission should reconsider the tentative conclusion in the May 8, 1997, Report and Order that the system of universal service support for small, rural LECs classified as "Rural Telephone Companies" must transition to a proxy model-based funding system in 2001. Recent statements by Chairman Kennard have indicated that the 2001 date for commencement of a transition should be considered only "tentative." This change in status of the 2001 date should be formally clarified by the Commission prior to appointment of the Rural Task Force called for in the May 8, 1997, Report and Order. This will allow the work of the Rural Task Force to proceed without the current uncertainty of this "firm but tentative" deadline.

The Commission should also re-examine at this time the conclusion in the May 8, 1997, Report and Order that the best method for determination of USF funding requirements of Rural Telephone Companies is a proxy model-based system. Proxy models are still "works in progress," even though only seven months remain before the Commission's originally-intended January 1, 1999, implementation date for proxy-models for large LECs. The contending models are continually being "improved," with each new version having supposedly cured all of the shortcomings of the prior version.

While proxy models are extremely complex, they still fail to produce sufficient detail for accurate cost estimates of the wide range of telecommunications service requirements found across the nation. It is reasonable to assume that even the fully-refined proxy model ultimately adopted by the Commission will at best present rough estimates of actual cost and that the degree of error will increase as the model is applied to smaller cost study areas, due to averaging.

This is not to say that proxy models cannot serve as a valid method of assessing universal service funding requirements for large LECs. Such models may well represent the only administratively-feasible method of approximating cost distinctions among the high and low cost exchanges served by large, geographically-diversified LECs. Large LECs do not have exchange-specific cost records or studies that disaggregate their high-cost and low-cost service areas, and a proxy model does address this lack of area-specific data.

It has yet to be shown, however, that any proxy model will generate service cost data for small, rural LECs that is superior to their actual, known service costs as a measure of their universal service funding requirements. This is an area that should be reviewed and studied by the Rural Task Force without the Commission's advance assumption that the Task Force recommendations to the Commission should necessarily be proxy model-based.

Chairman Kennard recently suggested that the adage "if it ain't broke, don't fix it" could be applied to Rural Telephone Company universal service funding. The Chairman's suggestion should be incorporated into further Commission action. The Commission should eliminate the tentative conclusion of the May 8, 1997, Report and Order that rural LEC universal service funding will necessarily be based on proxy model calculations. The Commission should, instead, order the Rural Task Force to produce recommendations to the Commission on just how much "fixing" of the present rural universal support mechanisms[6] is needed to provide for a fair and sustainable system that is adaptable to the competitive telecommunications environment.

IV. CONCLUSION.

The Telecommunications Act of 1996 charged the Commission with the responsibility of developing a sustainable universal service program that would be compatible with the advent of local competition. The Commission's final determination of the rules applicable to both large and small local exchange service providers should be grounded firmly in the Act and uniformly applied throughout the nation.

Dated: May 15, 1998

Respectfully submitted,

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[6]High loop cost USF support, DEM weighting and Long Term Support.